THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION Nos. 18472 & 18497 of 1997

Dated: 07.03.2007

Between:

M.Y. Barnabas

… Petitioner

AND

The Chairman & Managing Director,
The New India Assurance Company Limited,
New India Assurance Building, Mumbai
& others.

… Respondents

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION Nos. 18472 & 18497 of 1997

COMMON ORDER:-

Since these two writ petitions are interrelated, they are disposed of together by a common order.

In both these writ petitions industrial disputes were raised against the petitioner - Management before the Industrial Tribunal-II (for short "the Tribunal"). In I.D.No.32 of 1995, the question that was referred for consideration by the Tribunal was whether the Management of Bharatiya Vidya Bhavan, Sainikpuri Kendra, Secunderabad was justified in not providing the job of Lab Attender to Mr. Ramanaiah when it was said to be filled with V. Maginder Raj, who was said to be junior to Mr. Ramanaiah?

It is stated by the learned counsel for respondent No.2 that learned counsel for the petitioner has not disputed that Mr. Ramanaiah, who was directed to be posted as Lab Attender in the petitioner's organization, was subsequently transferred as Attender and he is presently working. The learned counsel therefore submits that no cause in the writ petition survives since Mr. Ramanaiah is no longer working as Lab Attender and instead he is posted as Attender in which post he is working now.

As regards I.D.No.36 of 1995, the dispute referred for adjudication by the Tribunal is as under:

> "Whether the management of Bhavan's Sri Ramakrishnan Vidyalaya, Sainikpuri Unit, Hyderabad is justified in not considering the charter of demands dated 22.07.1994 submitted by the A.P. Non-Teaching Staff Union vide their letter dated 15.11.1994?
>
> If not, what relief are the workmen entitled to keeping in view the 13% of wage increased by the management with effect from July, 1994?"

Learned counsel for respondent No.2 submitted that the duration of charter of demands, which were directed to be enforced under the impugned award, was for a period of three years from 22.07.1994 and that the three years period expired on 22.07.1997. He further submitted that if the 2nd respondent -Union seeks further enforcement of any further demands, they have to raise a separate industrial dispute. He therefore submits that on this count no cause in this writ petition also survives.

Learned counsel for the petitioner has not disputed this statement of fact. He further submits that the petitioner in both the I.Ds., has raised a fundamental issue as to the maintainability of the I.Ds. on the ground that the petitioner does not fall within the definition '*Industry*' under Section 2-J of the Industrial Disputes Act 1947 and that the Tribunal has not properly adjudicated the said issue.

As regards the jurisdiction of the Tribunal to entertain industrial disputes, it is always open to the petitioner to raise this issue as and when occasion arises. Since the learned counsel for the petitioner does not dispute that the cause in the present writ petitions does not survive for consideration, there is no need to decide the issue of jurisdiction in these two writ petitions, as the same has become a purely academic issue. However, this question of jurisdiction is left open to be agitated by the petitioner in appropriate proceedings in future as and when such necessity arises.

For the aforementioned reasons, both the writ petitions are dismissed as infructuous. No costs.

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C.V. NAGARJUNA REDDY, J

Date: 07.03.2007
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